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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

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TETRIS HOLDING, LLC and THE   )
TETRIS COMPANY, LLC,   )
)
          Plaintiffs and   )
          Counterclaim-Defendants,   )
)
     vs.   ) Civil Action No.
)3:09-CV-6115(FLW)(DEA)
)
XIO INTERACTIVE INC.,   )
)
          Defendant and   )
          Counterclaim-Plaintiff.   )
)
_____)

VIDEOTAPED DEPOSITION OF

MARIO BALIBRERA

_____

December 10, 2010

REPORTED BY:

JULIE ANNE ZEIGLER, RPR, CSR 9750   JOB #432369

1   Q.   So earlier you testified that you created the

2   music for Mino, right?

3   A.   Yes.

4   Q.   Are you a musician?

5   A.   Yes.

6   Q.   What do you play?

7   A.   I play the piano and -- yeah, mainly.

8   Q.   Did you study piano at Pomona?

9   A.   No.

10   Q.   Or did you ever take music composition

11   classes?

12   A.   No.

13   Q.   Have you written music other than the music

14   for Mino?

15   A.   Yes.

16   Q.   Have you written music for other games than

17   Mino?

18   A.   No.

19   Q.   And was your process for writing the music

20   for Mino different from your process -- was your

21   process for writing music for Mino different from your

22   process for writing music in other contexts?

23   A.   Yes.

24   Q.   And how was that different?

25   A.   Well, the first, the most obvious, reason is I

1   was using this mini sequencing program instead of just

2   like a piano or something, but that's not enough because

3   I write electronic music from time to time using the

4   same program. But there are further differences. Also,

5   since this was for a game and I hadn't composed any

6   other music for games, it needed, you know -- it wasn't

7   just a matter of making this music file and that's that.

8   We -- I -- for each file, if I remember the process

9   correctly, I made, you know, a cut of the whole file --

10   oh, no, wait. Did I do it like that? I think it was I

11   made a cut of the whole file, then I wrote some little

12   scripts for slicing the files up and, like, compressing

13   them because this stuff can get pretty big and you need

14   it to be really small because they have to download it

15   on their iPhones, you know.

16   Q.   That sounds like a technical process. What

17   I'm talking about is your process for the melody, for

18   creating the melody, which, I assume, you can do on a

19   piano or electronic keyboard or a program. But, I

20   mean, you created the melody for the music for Mino,

21   correct?

22   A.   Yes.

23   Q.   Am I using the wrong -- when I say "melody,"

24   is that not making sense to you? The tune, or did you

25   call it the melody?

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1   A.   I came up with the tunes, I guess, you might

2   say.

3   Q.   The melody and arrangement of the song?

4   A.   Yeah.

5   Q.   Right. And so in creating that melody or

6   arrangement, thinking that creatively, was that a

7   different process than when you write other music?

8   A.   Well, I mean, there were different

9   constraints. Like one of them was that I had to divide

10   the pieces -- for every piece, I had to divide it up so

11   that any of the sections could, like, continue into any

12   of the other sections, because, I mean --

13   Q.   So it had to be a continuous song?

14   A.   Yeah. Well, I mean, we went through, like, a

15   few different iterations of, like, how the sound is

16   actually presented to the user. Like, we did different

17   versions. I think ultimately, just because of file size

18   constraints, we may have not even gone with the really

19   complicated thing we were doing.

20   I mean, at one point we had -- we had

21   different -- different -- each song was cut up into

22   different -- into pieces, right, but there were

23   different versions. There were different collections of

24   those pieces for each song going at different speeds,

25   and it would programmatically, like, jump from one to

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1   the next and determine the speed based on what was going

2   on in the game. Although, I don't know if that was -- I

3   don't remember if that was the final thing we shipped

4   with. We may have shipped with something less

5   complicated so we wouldn't have to have as many files.

6   But, in writing the music, I had to -- this is what I

7   was writing for. So they had to -- basically, they had

8   to be in these equally sized segments and --

9   Q.   What's "they had to be in equally sized

10   segments?"

11   A.   Sorry, that was ambiguous. For each piece --

12   each piece had to be able -- you had to be able to cut

13   it up into equally sized segments that they -- that

14   could be scrambled up any way and still make sense

15   musically, I guess.

16   Q.   What's the name of the song that was

17   ultimately chosen for Mino?

18   A.   There were -- I think there were three songs

19   ultimately chosen, and I don't know the names off the

20   top of my head.

21   Q.   So there's three different -- a user will

22   hear three different songs in Mino?

23   A.   I think three, yeah. There should be one for

24   standard mode, one for glacier mode, and one for the

25   menu.